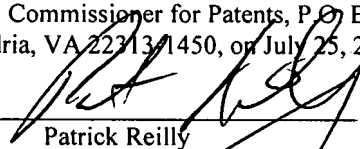




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DS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

<p>In re application of:</p> <p>BAUER, ROSS W.</p> <p>Serial No.: 10/790,376</p> <p>Filed: 03/01/2004</p> <p>Title: Protective cover for a motorized vehicle engine hood</p>	<p>Group Art Unit: 3644</p> <p>Examiner: SHAW, Elizabeth A.</p> <p>Docket: RB-001-US</p> <p>CERTIFICATE OF MAILING</p> <p>I hereby certify that this correspondence is being deposited with the US Postal Service as First Class Mail in a postage-paid envelope addressed to Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on July 25, 2007.</p> <p>Signed:  Patrick Reilly</p>
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PETITION TO REVIVE AN UNINTENTIONALLY ABANDONED PATENT APPLICATION

Commissioner for Patents
M/S Petition
Box 1450
Alexandria, VA 22313-1450

Dear Examiner:

An Applicant's Response was mailed on November 3, 2006 to an Office Action mailed from the USPTO on May 3, 2006. The Office Action lacked fees for additional claims. This failure to include a payment of additional fees with the Applicant's Response of November 3, 2006 caused the above referenced patent application to become unintentionally abandoned.

Applicant hereby petitions for the revival of the above referenced patent application which was unintentionally abandoned. Applicant submits the following papers with this petition.

- Applicant's Response newly executed and as submitted on November 3, 2006;
07/31/2007 HGBREH1 00000040 10790376
02 FC:2201 400.00 00
- Notice of Abandonment, one page;
- Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b), PTO/SB/64, two pages;

- Check no. 2014, for \$750.00, petition fee;
- Copy of Notice Requiring Excess Claims Fees, Confirmation No. 4254, two pages;
- 5 ➤ Check no. 2015, for \$400.00, additional claims fee; and
- Self-addressed stamped postcard.

Status of Claims

Claims 1-11 and 13-20 are pending

Claims 13, 14 and 18-20 are allowed.

- 10 Claims 4-6 and 10 are objected to.

Claim 12 is cancelled.

Claims 1-3, 7-9, 11 and 15-17 are rejected.

Claims 1, 3-6, 10, 11 and 115 are currently amended.

- 15 Please note the Claims as presently amended and listed on pages 3-6 herein.

AMENDMENTS

In the Claims

- 5 1. (currently amended) A protective cover for a heat emitting structure, comprising a fabric and an attachment means, the fabric comprising a material attractive to at least some animals, and the fabric configured for transferring heat from the heat emitting structure to attract at least some animals, and the attachment means configured to removably couple the fabric to an exterior surface of a vehicle.
- 10 2. (original) The cover of claim 1, wherein the fabric presents a sensual quality pleasant to at least a plurality of cats.
3. (currently amended) The cover of claim 4 [[1]] , the fabric presents a sensual quality pleasant to at least a plurality of dogs.
4. (currently amended) [[The cover of claim 1, wherein]] A protective cover for a
- 15 heat emitting structure, comprising a fabric and an attachment means, the fabric transferring heat from the heat emitting structure to attract at least some animals, the fabric comprising [[comprises]] a material emitting an odor pleasant to at least some animals; and
- 20 the attachment means configured to removably couple the fabric to an exterior surface of a vehicle.
5. (currently amended) The cover of claim 4, wherein the fabric [[provides]] comprises a material emitting an odor pleasant to at least a plurality of cats.
6. (currently amended) [[The cover of claim 1, wherein]] A protective cover for a heat emitting structure, comprising a fabric and an attachment means, the fabric

transferring heat from the heat emitting structure to attract at least some animals, the fabric comprising fleece; and
the attachment means configured to removably couple the fabric to an exterior surface of a vehicle.

5 7. (original) The cover of claim 1, wherein the fabric has a planar quadrilateral surface of about four feet by four feet.

8. (original) The cover of claim 1, wherein the fabric further comprises a pillow section.

9. (original) The cover of claim 1, wherein the fabric further comprises a planar
10 surface having a shape selected from the group of shapes consisting of a quadrilateral, a rectangle, a diamond, a circle, and an ellipse.

10. (currently amended) [[The cover of claim 1, wherein]] A protective cover for a heat emitting structure, comprising a fabric and an attachment means, the fabric transferring heat from the heat emitting structure to attract at least some animals, and the

15 fabric having a planar surface having a shape selected from the group of shapes consisting of a cartoon character, a signage and a logo; and
the attachment means configured to removably couple the fabric to an exterior surface of a vehicle.

11. (currently amended) The cover of claim 1, wherein the fabric ~~has a surface~~
20 ~~configured to visually display~~ is shaped as a signage.

12. (cancelled) The cover of claim 1, wherein the fabric has an attachment means, the attachment means for removably coupling the fabric to the heat emitting structure.

13. (previously presented) The cover of claim 14, wherein the fabric is configured for roll-up.

14. (previously presented) A protective cover for a heat emitting structure,
comprising a fabric and an attachment means, the fabric transferring heat from the heat
5 emitting structure to attract at least some animals, and the attachment means configured
to removably couple the fabric to a vehicle, wherein the fabric further comprises an
aperture configured for removably attaching the cover for storage by hanging.

15. (currently amended) A protective cover for a heat emitting structure, the cover
having a top sheet and a bottom sheet, the top sheet configured to attract and support an
10 animal and the bottom sheet configured to be applied against an exterior surface of the
heat emitting structure.

16. (original) The cover of claim 15, wherein the top sheet comprises a fabric
comfortable to a plurality of cats.

17. (original) The cover of claim 15, wherein the top sheet comprises a fabric
15 comfortable to a plurality of dogs.

18. (previously presented) A cover for use as a cushion for a cat, the cover
comprising:

a pad having a top and an opposing bottom, the top forming a cat engaging surface
whereon the cat can lie in direct engagement with the top of the pad; and

20 a plurality of magnets, the plurality of magnets coupled with the pad, and the plurality of
magnets positioned to enable removable attachment of the cover to a metallic hood of a
vehicle.

19. (original) The cover of claim 18, wherein the pad is configured for placement proximate to a heat emitting equipment of a vehicle.
20. (original) The cover of claim 19, wherein the pad is configured for placement proximate to a protective hood of the heat emitting equipment, whereby the cat may
- 5 receive heat emitted by the equipment when the cat is proximate to the cover.

Applicants Response to Examiner's Comments

Claim Rejections – 35 USC § 102(b)

Examiner rejects Claims 1-3, 7-9 and 15-17 under 35 U.S.C. 102(b) as being anticipated by Flesher (5,158,324). Examiner states that Flesher shows a cover 100
5 composed of assorted materials considered to be fabric, capable of being used as a cushion by a cat or dog, comprising a pad having a top and opposing bottom, the top forming a surface for the cat to lie upon and an attachment means 104 coupled with the pad 100 for easily removing the cover 100 from the metallic hood of a vehicle. The cover having a planar surface and shaped as a quadrilateral of a size capable of covering large
10 sections of the vehicle hood, (see figs. 2A, 2C, 2D, 2E). Examiner holds that any part of the cover can act as a pillow section, since no other structure is noted, a pillow section can be any area where the animal places it's head down, that area being a "pillow" section for the head of the animal. Examiner further holds that once the fabric of Flesher is removed from the cover, the fabric is configured for roll-up and that when placed on a
15 heat emitted structure, unless specifically designed against it, all fabric can transmit heat or have heat be felt through it.

Regarding Claims 1-2, 7-9, Applicant replies that Claim 1 as currently amended recites the fabric as “comprising a material attractive to at least some animals, and the fabric configured for transferring heat from the heat emitting structure to attract at least
20 some animals.” Independent Claim 1 as currently amended therefore specifies that the fabric is selected attract animals, rather than to merely protect the exterior surface of a vehicle. This novel and nonobvious quality of the present invention increases a users benefit of the invented protective cover by encouraging attraction of at least some

animals to the cover, whereby the user may be entertained and sympathetically comforted by observing the use of the protective cover by one or more attracted animals. This use of the Applicant's invented protective cover teaches away from the prior art, in that the prior art attempts to protect surfaces without being intentionally configured to attract
5 animals.

Applicant respectfully submits that independent Claim 1 as currently amended is therefore allowable, and that the Claims 2, 7, 8 and 9 depending from Claim 1 are also therefore allowable.

Applicant notes that Claim 3 is currently amended as depending from currently
10 amended Claim 4 and is therefore allowable.

Regarding Claims 15-17 Applicant replies that Claim 15 as currently amended recites the fabric as ".configured to attract and support an animal". Independent Claim 15 as currently amended therefore specifies that the fabric is selected attract animals, rather than to merely protect the exterior surface of a vehicle. As noted above in reference to
15 Claim 1, this novel and nonobvious quality of the present invention increases a users benefit of the invented protective cover by encouraging attraction of at least some animals to the cover, whereby the user may be entertained and sympathetically comforted by observing the use of the protective cover by one or more attracted animals. This use of the Applicant's invented protective cover teaches away from the prior art, in that the
20 prior art attempts merely to protect surfaces without being intentionally configured to attract animals.

Applicant respectfully submits that independent Claim 15 as currently amended is therefore allowable, and that the Claims 16 and 17 depending from Claim 15 are also therefore allowable.

Claim Rejections – 35 USC § 103

5 Examiner rejects Claim 11 under 35 U.S.C. 103(a) as being unpatentable over Flesher in view of Sandbeck (D465,687). Examiner notes that Flesher does not teach the use of a logo; and that Sandbeck shows in Fig. 7 a protective cover having a shape on the surface such as a logo. Examiner holds that, with respect to claim 11, to use the logo of Sandbeck with the cover of Flesher would have been obvious to one skilled in the art in
10 order to alter the aesthetic appeal of the device or to advertise the manufacturer.

Applicant responds that Claim 11 as currently amended recites of the fabric being shaped as a signage, rather than having a surface configured to visually display a signage. In support of this amendment to Claim 11, Applicant recites from paragraph 44 of the Patent Application, wherein Applicant disclosed that “[t]he fabric 4 may be shaped . . .
15 and present one of various shapes, to include . . . a corporate logo or signage, or shaped like a cartoon character...”. The optional surface 24 of the Present Invention is further disclosed in paragraph 44 to display signage or a logo. In contrast, Sandbeck teaches solely of a logo imprinted onto a blanket, rather than shaping a blanket in an outline of a logo. The alternate embodiment of fabric 4 of the Present Invention as recited in Claim
20 11 as currently amended is shaped as a fabric having an exterior edge in the outline of a signage, and is patentably distinct from a “shape on the surface” of a blanket as taught by Sandbeck.

Applicant respectfully submits that independent Claim 11 as currently amended is therefore allowable. Applicant respectfully further notes that independent Claim 11 as dependent from currently amended Claim 1 and is therefore allowable.

Allowable Subject Matter

5 Examiner allows Claims 13,14 and 18-20.

Examiner objects to Claims 4-6 and 10 as being dependent upon a rejected base claim, and states that Claims 4-6 and 10 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant respectfully responds that Claims 4, 6 and 10 as newly amended are rewritten
10 as an independent claim and incorporates all limitations of the former base Claim 1.

Applicant further responds that Claim 5 as newly amended is dependent on Claim 13 is therefore allowable.

Applicant respectfully submits that that the Claims as currently submitted are allowable.

15 If any matters can be resolved by telephone, Applicant requests that the Patent and Trademark Office call the Applicant at the telephone number listed below.

Respectfully submitted,

20 By: 

Patrick Reilly
Reg. No. 37,427

25 Patrick Reilly
Patent Attorney
Box 7218
Santa Cruz, CA 95061-7218
(831) 332 7127



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number (Optional)
RB-001-US

First named inventor: BAUER, ROSS W.

Application No.: 10/790,376

Art Unit: 3644

Filed: 03/01/2004

Examiner: SHAW, ELIXABETH A.

Title: PROTECTIVE COVER FOR A MOTORIZED VEHICLE ENGINE HOOD

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or
action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration
date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee☒ Small entity-fee \$ 750.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in
the form of _____

(identify type of reply):

- ☒ has been filed previously on 11/03/2006
☐ is enclosed herewith.

87/31/2037 MGEDEM1 00002240 10790376

G1 FC:2453

750.00 OP

B. The issue fee and publication fee (if applicable) of \$ _____

- ☐ has been paid previously on _____
☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the
USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to
complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any
comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer,
U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED
FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

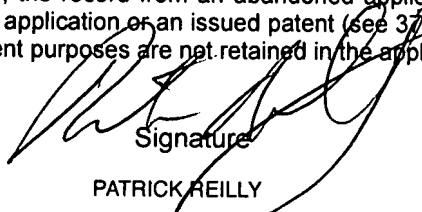
3. Terminal disclaimer with disclaimer fee

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

- 4. STATEMENT:** The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.



Signature

PATRICK REILLY

Typed or printed name

P.O. BOX 7218

Address

SANTA CRUZ, CA 95061-7218

Address

07/25/2007

Date

37,427

Registration Number, if applicable

831.332.7127

Telephone Number

Enclosures: ☒ Fee Payment☒ Reply☐ Terminal Disclaimer Form☐ Additional sheets containing statements establishing unintentional delay☐ Other:**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date

Signature

Typed or printed name of person signing certificate

NOTICE REQUIRING EXCESS CLAIMS FEES	Application No. 10/790,378	Applicant(s) BAUER, ROSS W.	
		Art Unit 3644	

The excess claim(s) filed on 07 November, 2006 is not accompanied by the appropriate payment of excess claims fees set forth in 37 CFR 1.16(h)-(j) or 1.492(d)-(f). Excess claims fees are required for each claim in independent form in excess of three (§ 1.16(h)), each claim (whether dependent or independent) in excess of twenty (note that § 1.75(c) indicates how multiple dependent claims are considered for fee calculation purposes) (§ 1.16(i)), and each application that contains a multiple dependent claim (§ 1.16(j)).

Since the application is not under a final rejection, applicant is given a time period of **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, to submit either: (1) the fee payment of \$ 400.00, or (2) an amendment in compliance with 37 CFR 1.121 that cancels the excess claim(s), in order to avoid ABANDONMENT. Extensions of this time period may be granted under 37 CFR 1.136, unless the excess claim(s) was presented in a preliminary amendment.

- ☐ 1. The funds in Deposit Account No. _____ are insufficient to cover the entire fee due. The balance is due within the time period set forth in this notice. See note below regarding the appropriate service charge.
- ☐ 2. The Credit Card payment to cover the entire fee due to Account _____ (Card type + last 4 digits ONLY) was refused. The balance is due within the time period set forth in this notice. See note below regarding the appropriate service charge.
- ☒ 3. The amendment that includes the excess claim(s) has not been entered, since applicant has failed to remit (or authorize charge to a Deposit Account or Credit Card) the fee as indicated on the attached Patent Application Fee Determination Record (PTO/SB/06). Remittance or authorization is due within the time period set forth in this notice.
- ☐ 4. The fee submitted in this application is insufficient. A balance of \$ _____ is due for presentation of excess claims (37 CFR 1.16(h)-(j) or 1.492(d)-(f)).
- ☐ 5. Other.

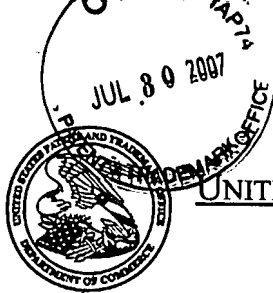
Explanation (Provide specific details of the required correction in order to assist the applicant. Indicate whether a service charge has been added to the fee due):

THE AMOUNT OF THE FEE(S) DUE IS SUBJECT TO CHANGE, GENERALLY ON OCTOBER 1 OF EACH YEAR (37 CFR 1.16, 1.21 & 1.492). THE AMOUNT OF THE FEE(S) DUE IS DETERMINED AS OF THE DATE A COMPLETE REPLY WITH THE APPROPRIATE FEE(S) IS RECEIVED BY THE OFFICE (37 CFR 1.8 & 1.10). BECAUSE THE AMOUNT DUE IS SUBJECT TO CHANGE, IT IS RECOMMENDED THAT APPLICANT CHECK THE CURRENT FEE SCHEDULE WHICH IS AVAILABLE ON THE USPTO'S WEBSITE AT: <http://www.uspto.gov/web/offices/ac/qs/ope/fees.htm>

Service Charges: There is a \$50 service charge for processing each payment refused (including a check returned "unpaid") or charged back by a financial institution (37 CFR 1.21(m)). There is a \$25.00 service charge for each month when the balance of a deposit account is below \$1000 at the end of the month (37 CFR 1.21(b)(2)).

Technical Support Staff (TSS): Rozenia Harmon Phone Number: 571-27-20529

Note to TSS: Please do NOT use this notice if the application is under a final rejection.




UNITED STATES PATENT AND TRADEMARK OFFICE

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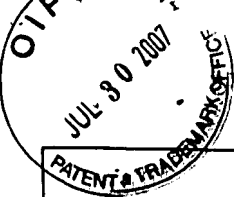
PATRICK REILLY
BOX 7218
SANTA CRUZ, CA 95061-7218

Paper No.

Application No.: 10/790,376 	Date Mailed: 11/29/2006
First Named Inventor: Bauer, Ross, W.	Examiner: PRICE, RICHARD THOMAS JR
Attorney Docket No.: RB-001US	Art Unit: 3643
Confirmation No.: 4254	Filing Date: 03/01/2004

Please find attached an Office communication concerning this application or proceeding.

Commissioner for Patents



Notice of Abandonment

Application No.

10/790,376

Examiner

Thomas Price

Applicant(s)

BAUER, ROSS W.

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 29 November 2006.

(a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.

(b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.

(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).

(c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).

(d) ☒ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).

(a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).

(b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.

The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.

(c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).

(a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.

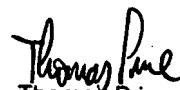
(b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:



Thomas Price
Primary Examiner GAU: 34643
June 11, 2007

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.